

1
MAY 16 1991

District Director
Oklahoma City District
Attn: Calvin Rothell

Assistant Chief Counsel
(Passthroughs and Special Industries) CC:PSI:8

Application of Revenue Procedure 76-21

Revenue agent Calvin Rothell has requested guidance from this office concerning the application of Rev. Proc. 76-21, 1976-1 C.B. 561, to the retailers excise tax on trucks and truck trailers and semitrailers imposed by section 4051 of the Internal Revenue Code.

Rev. Proc. 76-21, which supersedes Rev. Proc. 75-41, 1975-2 C.B. 574, establishes an acceptable transfer weight formula for determining the gross vehicle weight rating of a semitrailer for purposes of the now-repealed manufacturers excise tax (the predecessor to the 4051 tax) imposed by section 4061 of the Code. The formula was intended to apply where the gross vehicle weight of a semitrailer was determined on the basis of either the sum of the axle ratings or the readily attachable components. Note, however that Rev. Rul. 85-196, 1985-2 C.B. 205, subsequently concluded that for purposes of determining the gross vehicle weight of a motor vehicle in regard to the retailers tax, the seller could not take into account any readily attachable components of the vehicle.

Mr. Rothell asks whether the formula may be used for purposes of section 4051 of the Code where a towed vehicle, consisting of a body and a chassis with two rear axles, is equipped to be towed, not by a truck tractor, but by a truck equipped with a pintle hook.

It is the position of this office that the transfer weight formula set forth in Rev. Proc. 76-21 should be used to determine the gross vehicle weight of a vehicle in those cases where, because the vehicle is not equipped with a front axle, a portion of such vehicle's load is supported by a towing vehicle. That the towing vehicle be a truck tractor is not a requirement for the application of the formula.

08928

- 2 -

District Director
Oklahoma City District

We hope this adequately responds to Mr. Rothell's inquiry. Should he have any other questions we would be happy to provide further information as requested.

This response is advisory only and does not represent an expression of the views of the Service as to the application of law, regulations, and precedents to the facts of a specific case.

(signed) Richard A. Kocak

Richard A. Kocak

cc: Calvin Rothell
c/o IRS
Mail Stop 4404
200 N.W. 4th St.
Oklahoma City, OK 73101